

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Application by Verizon Maryland for	)	WC Docket No. 02-384
Authorization to Provide In-region,	)	
InterLATA Services in Maryland,	)	
Washington D.C., and West Virginia	)	

**REPLY COMMENTS OF  
CLOSECALL AMERICA, INC.**

CloseCall America, Inc. ("CloseCall") by and through counsel, hereby submits Reply Comments in response to the Commission's Public Notice requesting comment on the Application by Verizon Maryland for Authorization to Provide In-region, InterLATA Services in Maryland, Washington D.C., and West Virginia. CloseCall is a Maryland-based telecommunications company offering local, long distance, digital wireless, and Internet services primarily in Maryland, Delaware and New Jersey.

On May 2, 2002, CloseCall filed with the Public Service Commission of Maryland (the "MD-PSC") a complaint requesting that the MD-PSC direct Verizon Maryland, Inc. ("Verizon") to provide wholesale access to voice messaging and line sharing DSL services (i.e., digital subscriber line services that can be provided on loops that are also used by competitive local exchange carriers ("CLECs") to provide local telephone service).<sup>1</sup> The

---

<sup>1</sup> Complaint of CloseCall America, Inc., MD Public Service Commission Case No. 8927, May 2, 2002 (the "*Complaint*").

MD-PSC thereafter undertook a proceeding, designated MD-PSC Case No. 8927, to resolve the issues raised by CloseCall's *Complaint*.

In its December 16, 2002 Conditional Order in Case No. 8921 (the MD-PSC's review of Verizon's compliance with 47 U.S.C. §271(c)), the MD-PSC directed Verizon to take certain actions to protect customer choice of line sharing DSL and telephone services.<sup>2</sup> On December 17, 2002, Verizon filed with the MD-PSC a letter documenting its acceptance of these conditions.<sup>3</sup> On December 24, 2002, the MD-PSC staff notified the parties to Case No. 8927 that the "Line Sharing" conditions described in the Conditional Order correspond to certain issues raised in CloseCall's *Complaint*.<sup>4</sup> In this manner, the MD-PSC indicated that Verizon's authority to provide in-region interLATA services in Maryland should be conditioned, in part, on Verizon's resolution of the anti-competitive line sharing DSL issues raised in Case No. 8927.

On January 9, 2003, CloseCall submitted to the Commission its Comments on Verizon's 271 Application for Maryland, Washington, D.C. and West Virginia. With its Comments, CloseCall also provided to the Commission, for its reference, convenience and use, a copy of its *Complaint* and the substantive pleadings and testimony (redacted to protect confidential information) that have been filed with the MD-PSC in Case No. 8927.

---

<sup>2</sup> Letter to Mr. William R. Roberts, President, Verizon Maryland Inc., from Catherine I. Riley, Chairman, J. Joseph Curran, III, Commissioner, Gail C. McDonald, Commissioner, and Harold D. Williams, Commissioner, Maryland Public Service Commission, Dec. 16, 2002 (the "*Conditional Order*").

<sup>3</sup> Letter to Felicia L. Greer, Executive Secretary, Public Service Commission of Maryland, from William R. Roberts, President, Verizon Maryland Inc., Dec. 17, 2002 (the "*Verizon Acceptance*").

<sup>4</sup> Email from Michael A. Dean, Maryland Public Service Commission, to Carville Collins, Piper Rudnick LLP; David Hill, Verizon Maryland Inc.; Sean Lev, Kellog Huber Hansen Todd and Evans, P.L.L.C.; Vincent Paladini, Piper Rudnick LLP; Kimberly Wild, WorldCom, Inc.; Catherine Dowling and Sarah

(Footnote continued to next page)

These documents describe Verizon's policies regarding the provision of line sharing DSL to customers that choose to subscribe to competitive local telephone service providers, the competitive issues related to these policies and the positions of each party to the proceeding.

In its Comments, CloseCall noted that the parties to Case No. 8927 continue to undertake confidential discovery and were awaiting an order from the MD-PSC regarding the admission of additional testimony on behalf of CloseCall. The MD-PSC issued that order subsequent to CloseCall's submission of its Comments in this proceeding. Pursuant to the terms of the MD-PSC's order, on January 31, 2003, Thomas E. Mazerski, President and Chief Executive Officer of CloseCall submitted supplemental testimony and Robert W. McCausland, an independent Telecommunications Consultant, submitted direct testimony for inclusion in the public record for MD-PSC Case No. 8927. As further discussed below, CloseCall hereby provides to the Commission for its reference, convenience and use, public versions of the testimony submitted by Mr. Mazerski and Mr. McCausland to the MD-PSC on January 31, 2003, redacted to protect the confidentiality of certain information that remains proprietary to the parties to Case No. 8927.

In his supplemental testimony, Mr. Mazerski discusses new documentation showing that Verizon continues to require that its line sharing DSL customers must also subscribe to Verizon's local telephone services.<sup>5</sup> Mr. Mazerski also discusses how Verizon appears to be forcing third party providers that provide line sharing DSL services

---

*(Footnote continued from previous page)*

Lazarus, Maryland Public Service Commission; and Richard Miller, Office of People's Counsel, Dec. 24, 2002.

<sup>5</sup> Supplemental Testimony of Thomas E. Mazerski, *See* Attachment 1.

to cooperate with its product tying strategy. In addition, Mr. Mazerski describes how Verizon uses these anticompetitive and discriminatory tactics to reduce competition in the consumer and small business markets in Maryland.

In his direct testimony, Mr. McCausland provides expert review and analysis of proprietary case materials, documents and information produced by Verizon in Case No. 8927 and states his conclusion that Verizon has purposefully tied the provision of its local telephone service to the provision of its voice messaging and line sharing DSL services.<sup>6</sup> Mr. McCausland also discusses certain troubling aspects of Verizon's local customer "winback" efforts and agreements with other carriers. Finally, Mr. McCausland provides insight with regard to the economic impact of Verizon's anti-competitive policies and actions in Maryland.

Consistent with the statements it made in its Comments, CloseCall remains focused on resolving the issues relating to the *Complaint* before the MD-PSC and does not seek to resolve the other matters raised in the *Complaint* in this proceeding. However, because the MD-PSC, in its *Conditional Order* regarding Verizon's Section 271 Application, included a condition that reflects certain issues involved in the *Complaint*, CloseCall hereby provides for the Commission's reference and convenience these Reply Comments and the attached documents as they appear in the public record associated with Maryland Public Service Commission Case No. 8927.

Although almost two months have passed since Verizon committed to the MD-PSC that it would do so, Verizon has not yet informed CloseCall of any actions that it intends to

---

<sup>6</sup> Direct Testimony of Mr. Robert W. McCausland, *See* Attachment 2.

take in order to comply with the MD-PSC's line sharing DSL condition, nor has Verizon otherwise made available to CloseCall any notice that it is willing to discuss or agree to technical or business arrangements as described by the MD-PSC in the *Conditional Order* and agreed to by Verizon in the *Verizon Acceptance*. Consequently, CloseCall respectfully requests that, in the course of this proceeding, the Commission recognize and preserve the conditions according to which the MD-PSC has granted its consent to Verizon's provision of in-region interLATA services in Maryland.

Respectfully submitted,

/s/Vincent M. Paladini

Thomas E. Mazerski  
President and CEO  
CloseCall America, Inc.

Carville B. Collins  
Vincent M. Paladini  
Piper Rudnick LLP  
1200 Nineteenth Street, N.W.  
Washington, D.C. 20036  
202-861-3900

*Attorneys for CloseCall America, Inc.*

February 14, 2003

## CERTIFICATE OF SERVICE

I, Evelyn Opany, a secretary in the law firm of Piper Rudnick, LLP, do hereby certify that I have on this 14<sup>th</sup> day of February, 2003 caused copies of the foregoing Reply Comments of CloseCall America, Inc. to be served to the following:

Marlene Dortch  
Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, DC 20002

Qualex International  
Portals II  
445 12<sup>th</sup> Street, SW  
Room CY-B402  
Washington, DC 20054

Bryan Tramont  
Christopher Libertelli  
Office of Chairman Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Matthew Brill  
Office of Commissioner Abernathy  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Jordan Goldstein  
Office of Commissioner Copps  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Daniel Gonzalez  
Office of Commissioner Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Lisa Zaina  
Eric Einhorn  
Office of Commissioner Adelstein  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Scott Bergmann  
Jessica Rosenworcel  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Michelle Carey  
Janice Myles  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Gregory Cooke  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Gail Cohen  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Marcy Greene  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Jon Minkoff  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Cecilia Seppings  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20054

Susan Wittenberg  
U.S. Department of Justice  
Antitrust Division  
Telecommunications and Media  
Enforcement  
1401 H Street, N.W., Suite 8000  
Washington, D.C. 20530

Benjamin Brown  
U.S. Department of Justice  
Antitrust Division  
Telecommunications and Media  
Enforcement  
1401 H Street, N.W., Suite 8000  
Washington, D.C. 20530

Michael D. Chaleff  
U.S. Department of Justice  
Antitrust Division  
Telecommunications and Media  
Enforcement  
1401 H Street, N.W., Suite 8000  
Washington, D.C. 20530

Lauren J. Fishbein  
U.S. Department of Justice  
Antitrust Division  
Telecommunications and Media  
Enforcement  
1401 H Street, N.W., Suite 8000  
Washington, D.C. 20530

Jack Nichols  
U.S. Department of Justice  
Antitrust Division  
Telecommunications and Media  
Enforcement  
1401 H Street, N.W., Suite 8000  
Washington, D.C. 20530

Mayor Anthony Williams  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.,  
Washington, D.C. 20004

FiberNet, LLC  
Steven Hamula  
211 Leon Sullivan Way  
Charleston, WV 25301-2408

Public Service Company of West Virginia  
Richard E. Hitt, Esq.  
201 Brooks Street  
Post Office Box 812  
Charleston, WV 25323

Sprint Communications Company, L.P.  
Marybeth Banks  
401 9<sup>th</sup> Street, NW Suite 400  
Washington, D.C. 20004

The Office of the People's Counsel for  
D.C.  
Joy Melody Ragsdale, Esq.  
1133 Fifteenth Street, NW, Suite 500  
Washington, D.C. 20910

Alliance for Public Technology  
919 18<sup>th</sup> Street, Suite 900  
Washington, D.C. 20006

National ALEC Association  
Prepaid Communications Association  
Glenn S. Richards  
2300 N. Street, NW  
Washington, D.C. 20037-1128

Z-Tel Communications, Inc.  
Michael B. Hazzard  
1200 19<sup>th</sup> Street, N.W., Suite 500  
Washington, D.C. 20036

Worldcom, Inc.  
Keith L. Seat  
1133 19<sup>th</sup> Street, N.W., Suite 721  
Washington, D.C. 20036-0000

Starpower Communications, LLC  
US LEC Corp.  
Harisha Bastiampillai  
3000 K Street, Suite 300  
Washington, D.C. 20007

AT&T Corp.  
David M. Levy  
1501 K Street, N.W.  
Washington, D.C. 20005

District of Columbia Public Service  
Commission  
Angel M. Gartagena  
1333 H Street, N.W., 3rd Floor, West  
Tower  
Washington, D.C. 20005

Maryland Office of Peoples Counsel  
Theresa V. Czarski  
6 St. Paul Street, Suite 2102  
Baltimore, MD 21202

Maryland Office of Peoples Counsel  
Michael J. Travieso  
6 St. Paul Street, Suite 2102  
Baltimore, MD 21202

Core Communications, Inc.  
Kelley, Drye & Warren, LLP  
Heather T. Hendrickson  
1200 19<sup>th</sup> Street, N.W., Suite 500  
Washington, D.C. 20036

Xspedius Management Co, LLC  
Kelley, Drye & Warren, LLP  
Michael Hazzard  
1200 19<sup>th</sup> Street, N.W. Suite 500  
Washington, D.C. 20036

Maryland Office of Peoples Counsel  
Tracey Stokes  
6 St. Paul Street, Suite 2102  
Baltimore, MD 21202

North County Communications Corp.  
Joseph G. Dicks  
2720 Symphony Towers 750 B Street  
San Diego, CA 92101-8129

NAACP  
Hilary O. Shelton  
1025 Vermont Avenue, N.W.  
Washington, D.C. 20005

National Black Chamber of Commerce  
1350 Connecticut Avenue, N.W.,  
Suite 825  
Washington, D.C. 20036

Natl. Grange, Order of Patrons of  
Husbandry  
Leroy Watson, Legislative Director  
1616 H Street, N.W.  
Washington, D.C. 20006

Donald Laub, Director  
Telecommunications Division  
Maryland Public Service Commission  
William Donald Schaeffer Tower  
6 St. Paul Street  
Baltimore, MD 21202-6806

National Native American Chamber of  
Comm.  
601 Pennsylvania Avenue, N.W.  
North Building, Suite 407  
Washington, D.C. 20006-2601

American Assoc. of People with  
Disabilities  
Andrew J. Imparato  
1819 H Street, N.W., Suite 300  
Washington, D.C. 20006

National Assoc. of Development  
Organizations  
Aliccann Wohlbruck  
400 North Capital Street, N.W., Suite 390  
Washington, D.C. 20001

**SERVICE LIST - CASE NO. 8927**

Carville B. Collins, Esq.  
Piper Rudnick, LLP  
6225 Smith Avenue  
Baltimore, Maryland 21209-3600  
(for CloseCall America, Inc.)

David A. Hill, Esq.  
Verizon Maryland, Inc.  
1 East Pratt Street, 8E/MS06  
Baltimore, MD 21202

Sean A. Lev, Esq.  
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.  
Sumner Square  
1615 M Street, NW, Suite 400  
Washington, DC 20036

M. Catherine Dowling, Esq.  
Sarah R. Lazarus, Esq.

Michael A. Dean, Esq.  
Office of Staff Counsel  
Maryland Public Service Commission  
William Donald Schaefer Tower  
6 St. Paul Street  
Baltimore, MD 21202-6806

/s/ Evelyn Opany

Evelyn Opany

**ATTACHMENT 1**

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND**

**IN THE MATTER OF THE  
COMPLAINT OF CLOSECALL  
AMERICA, INC. V. VERIZON  
MARYLAND INC.**

\*  
\*  
\*  
\*  
\*

**CASE NO. 8927**

**SUPPLEMENTAL TESTIMONY**

**OF**

**Thomas E. Mazerski**

**ON BEHALF OF  
CLOSECALL AMERICA, INC.**

**January 31, 2003**

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is Thomas E. Mazerski. My business address is 101A Log  
3 Canoe Circle, Stevensville, Maryland 21666.

4

5 Q. DID YOU FILE SURREBUTTAL TESTIMONY IN THIS CASE?

6 A. Yes.

7

8 Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?

9 A. In my supplemental testimony, I will provide new information showing how  
10 Verizon continues to execute its anticompetitive strategy of tying its line  
11 sharing DSL and local telephone services.

12

13 Q. PLEASE PROVIDE AN OVERVIEW OF YOUR TESTIMONY.

14 A. First, I will discuss new documentation showing that Verizon continues to  
15 require that its line sharing DSL customers must also subscribe to  
16 Verizon's local telephone services. Next, I will discuss how Verizon  
17 appears to be forcing third party providers that provide line sharing DSL  
18 services to cooperate with its product tying strategy. Finally, I will describe  
19 how Verizon uses these anticompetitive and discriminatory tactics to  
20 prevent competitors from threatening its domination of the consumer and  
21 small business markets in Maryland.

22

**I. Verizon Still Forces its Line Sharing DSL Customers To Cancel  
Their CloseCall Local Telephone Service.**

Q. DO YOU HAVE NEW EVIDENCE SHOWING THAT VERIZON FORCES  
CONSUMERS TO CHOOSE BETWEEN VERIZON LINE SHARING DSL  
SERVICE AND CLOSECALL LOCAL TELEPHONE SERVICE?

A. Yes. Exhibit 1 contains two recent customer reports showing that Verizon  
will not provide line sharing DSL to CloseCall's local telephone customers  
nor will Verizon permit its line sharing DSL customers to switch to  
CloseCall's telephone services. Specifically, in the first example, our  
customer clearly states: "I must change my phone service to VERIZON. I  
have had good service from your company, but it appears that I must  
change my service in order to get DSL." It would be hard to find a more  
telling example of the harm that Verizon's tying of line sharing DSL and  
local telephone services inflicts on consumers and competitors.

The second example documents Verizon's refusal to permit a Verizon line  
sharing DSL subscriber to obtain CloseCall's local telephone service. In  
this manner, Verizon is using its tying strategy to ensure that its line  
sharing DSL customers cannot subscribe to competitive local carriers. In  
each case, Verizon's local telephone customer would rather subscribe to  
CloseCall – proving that Verizon's anticompetitive strategy is succeeding.

1 Q. WHY DO YOU CLAIM THIS A TYPICAL COMPLAINT FROM  
2 CLOSECALL CUSTOMERS?

3 A. Customers normally report these problems by calling our customer service  
4 center. Occasionally, customers take the time to write emails  
5 documenting the fact that they must choose between CloseCall local  
6 telephone service and Verizon's line sharing DSL – and some send the  
7 complaints directly to me. Between telephone calls and emails, we  
8 receive reports of these problems on a daily basis.

9  
10 Q. HOW DOES CLOSECALL RESPOND TO THESE CUSTOMERS?

11 A. We assure our customers that we are working very hard to fix these  
12 problems. We also tell them that we have filed a complaint with the  
13 Commission and that we are currently engaged in a proceeding that,  
14 hopefully, will provide a solution. In addition, we now tell our customers  
15 that, as a condition for its approval of Verizon's application to provide  
16 interLATA services in Maryland, Case 8921, the Commission has directed  
17 Verizon to permit consumers subscribing to Verizon's line sharing DSL  
18 service to select the local telephone service provider of their choice.  
19 Unfortunately, we must also tell our customers that Verizon is not yet  
20 complying with this condition and request that they please be patient.

1 Q. ARE CLOSECALL'S CUSTOMERS BEING PATIENT?

2 A. No. Since early 2002, we have been asking our customers to bear with  
3 us. At this point, most customers have lost all patience and given in to  
4 Verizon's demand that they cancel their CloseCall local telephone service  
5 and subscribe to Verizon's.

6

7 Q. HOW HAS THIS AFFECTED YOUR BUSINESS?

8 A. As you know, CloseCall is a small, competitive telephone service provider.  
9 Since CloseCall filed its complaint in May 2002, Verizon's anticompetitive  
10 tying strategy has cost CloseCall thousands of customers and over  
11 \$1,700,000 in potential revenue. These losses continue to mount. In  
12 addition, CloseCall expects to spend more than \$100,000 in legal fees  
13 merely to pursue the instant case. At the same time, CloseCall is  
14 attempting to resolve with Verizon a billing dispute worth \$320,000, but we  
15 are making little progress. The cumulative effect on CloseCall is dramatic.

16

**II. Verizon Requires Consumers To Cancel Their CloseCall Local Telephone Service And Subscribe To Verizon's Local Telephone Service In Order To Obtain Line Sharing DSL Services From Third Party Providers.**

Q. DOES VERIZON LIMIT ITS TYING STRATEGY TO CUSTOMERS SUBSCRIBING TO VERIZON'S LINE SHARING DSL?

A. No. Verizon also has a strategy to stop customers who obtain line sharing DSL services from independent Internet service providers ("ISPs"), such as EarthLink, Inc. and AOL Time Warner Inc. ("AOL") and digital local exchange carriers ("DLECs") such as Covad Communications Group, Inc. ("Covad") from subscribing to CloseCall's local telephone service.

Q. HOW IS VERIZON EXTENDING ITS TYING STRATEGY TO CUSTOMERS SUBSCRIBING TO LINE SHARING DSL PROVIDED BY ISPs AND DLECs?

A. In Ms. Clayton's Rebuttal Testimony, she described Verizon's "Resold DSL over Resold Lines" ("DRL") service which provides a high-speed connection between customers and ISPs. ISPs and DLECs that provide Internet access service can combine DRL with Internet access to provide line sharing DSL services that are similar to Verizon's. However, it appears that Ms. Clayton neglected to mention that Verizon's agreements with companies such as EarthLink, AOL and Covad prohibit those

1 companies from providing broadband service on lines that CloseCall uses  
2 to provide local telephone service. Specifically, when a CloseCall  
3 customer seeks EarthLink, AOL or Covad broadband access, these  
4 companies instruct the customer that they must first cancel their CloseCall  
5 local service subscription and switch to Verizon's local telephone service.  
6 As you know, since Verizon is the incumbent local exchange carrier  
7 ("ILEC") in Maryland, there is no way for ISPs and DLECs such as  
8 EarthLink, AOL and Covad to provide service to customers without using  
9 Verizon's ubiquitous local loops. These ISPs and DLECs obtain access to  
10 Verizon's local loops by executing wholesale contracts and  
11 interconnection agreements. Although these restrictions do not appear in  
12 these public documents, it appears that Verizon is somehow compelling  
13 these companies to cooperate with its anticompetitive tying strategy in  
14 order to obtain access to its local loops.

15  
16 Q. DO YOU HAVE EVIDENCE DOCUMENTING THIS SITUATION?

17 A. Yes. Exhibit 2 contains two representative communications from  
18 CloseCall customers who recently learned that they must subscribe to  
19 Verizon's local telephone service in order to obtain line sharing DSL  
20 Internet access service from a DLEC or ISP. In the first communication,  
21 our customer states: "I also switched my local service from Verizon to  
22 CloseCall. I am still satisfied with the service and the savings.  
23 However . . . I applied for an account with a dsl provider (EarthLink) and

1           have been told that I cannot have it since I do not use Verizon for my local  
2           service. They will sign me up if I switch back to Verizon. So now I have a  
3           decision to make. Do you have any suggestions or solutions?" In the  
4           second communication, our customer reported that a number of line  
5           sharing DSL service vendors had informed him that they would be unable  
6           to provide him with service unless he switched to Verizon's local  
7           telephone service. The CloseCall customer states: "[i]n trying to obtain  
8           DSL service at our home . . . we contacted a number of DSL providers . .  
9           .. We came to the conclusion, if we wanted DSL, we would have to switch  
10          our local service from CloseCall America back to Verizon. Which we have  
11          now done. Thanks for providing a very dependable service to our location  
12          over the years, but please realize our hands were tied in this matter."  
13          These two examples are chilling illustrations of the type of consumer and  
14          competitive harm that Verizon's tying strategy is causing in Maryland.

15  
16   Q.   WHY DOES VERIZON UNDERTAKE THIS ANTICOMPETITIVE TYING  
17          STRATEGY?

18   A.   As I have stated in my prior testimony, Verizon is the only provider of  
19          wholesale line sharing DSL in most, if not all, of the markets CloseCall  
20          serves. Even where DLECs, such as Covad, provide line sharing DSL  
21          services, they provide those services on Verizon's loops and according to  
22          the terms of their interconnection agreement with Verizon. Mr. Taylor,  
23          Verizon's expert economist, testified "the mechanics of tying are simple: a

1 monopoly supplier of service A refuses to supply that service by itself and  
2 requires customers to also purchase service B, for which it faces  
3 competition.” The benefit of tying is ensuring that consumers obtain  
4 service B from the monopolist, even though the customers would prefer to  
5 buy service B from someone else. Consequently, by tying line sharing  
6 DSL and local telephone service, Verizon sells local telephone service to  
7 customers who would prefer to buy it from competitors, such as CloseCall.  
8 The fact that in some cases there is a third-party provider, such as Covad,  
9 AOL or EarthLink, makes no real difference. Verizon simply requires the  
10 third-party provider to comply with its policy that a competitive local  
11 telephone service provider, such as CloseCall, cannot share a Verizon line  
12 with a line sharing DSL service. In this manner, Verizon is using its  
13 market power and position to ensure that, even when Verizon is merely  
14 the wholesale provider of the underlying loops or DRL service, every  
15 customer subscribing to line sharing DSL from an ISP or DLEC will buy  
16 Verizon’s local telephone service. Consequently, Verizon reaps the  
17 benefits of its tying strategy even when it is not the retail service provider.

18  
19 Q. CAN CLOSECALL PROVIDE OTHER EXAMPLES OF VERIZON’S  
20 IMPOSITION OF ANTICOMPETITIVE RESTRICTIONS ON RETAIL  
21 BROADBAND INTERNET ACCESS PROVIDERS?

22 A. Yes. Exhibit 3 contains two records of communications involving Covad  
23 and AOL. In the first communication from Covad to CloseCall, Covad

1 explains that it cannot sell its line-sharing DSL ("ADSL") to CloseCall local  
2 telephone customers. The "other" services offered by Covad are non-line  
3 sharing services. In my prior testimony, I discussed why non-line sharing  
4 services do not constitute a viable alternative for our residential and small  
5 business customers. The second communication is from a customer who  
6 had to wait a long period of time for Verizon to migrate her local service  
7 over to CloseCall simply because the customer had previously requested  
8 DSL information from AOL, and Verizon had automatically assumed that  
9 the customer became a DSL subscriber.

10  
11 Q. HAS VERIZON CHANGED ITS TACTICS OR ALTERED ITS STRATEGY  
12 OF TYING ITS LINE SHARING DSL AND LOCAL TELEPHONE  
13 SERVICES IN RESPONSE TO THIS PROCEEDING OR ITS  
14 COMMITMENT TO THE COMMISSION IN CASE NO. 8921?

15 A. No. Verizon has not modified its policy of tying its line sharing DSL and  
16 local telephone service. In addition, it appears that Verizon does not  
17 intend to honor the commitment it made to the Commission in Case No.  
18 8921, according to which Verizon would no longer prevent its line sharing  
19 DSL customers from subscribing to CloseCall's local telephone service.  
20 Instead, Verizon continues to confuse and inconvenience customers and  
21 handicap the entry of competitive service providers, such as CloseCall,  
22 into the local telephone market in Maryland.

1 Q. DO YOU HAVE ANY RECOMMENDATIONS FOR HOW THE  
2 COMMISSION CAN RESOLVE THIS MATTER?

3 A. In addition to the recommendations that I have made in my prior  
4 testimony, the Commission should order Verizon to abandon all forms of  
5 its tying tactics, including those that involve third party service providers  
6 such as ISPs and DLECs. Such an order would not be without precedent.  
7 For example, Exhibit 4 contains an Order recently issued by the Louisiana  
8 Public Service Commission prohibiting BellSouth Telecommunications,  
9 Inc. from continuing to tie its line sharing DSL and local telephone  
10 services. Second, the Commission should bar Verizon from forming any  
11 agreements with ISPs, DLECs or other competitive local exchange  
12 carriers ("CLECs") that discriminate against competitive local telephone  
13 service providers. Such agreements are anticompetitive and contrary to  
14 Section 252 of the Telecommunications Act. Third, the Commission  
15 should develop a process for the expedient resolution of specific carrier  
16 complaints. Fourth, the Commission should develop an enforcement  
17 process that would allow competitive local carriers that have been subject  
18 to illegal, anticompetitive conduct to recover damages and associated  
19 legal and consulting fees. Without effective enforcement tools such as  
20 these, Verizon will continue to wield its monopoly power and dominant  
21 market position to block the efforts of competitive carriers seeking to  
22 provide telephone services in Maryland. The result will be less choice and  
23 higher prices for residential and small business consumers.

1

2 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

3 A. Yes.



